

Noah A. Katsell (Bar No. 217090)
noah.katsell@dlapiper.com
DLA PIPER US LLP
401 B Street, Suite 1700
San Diego, CA 92101-4297
Tel: 619.699.2700
Fax: 619.699.2701

Amy Weinfeld Schulman (To apply pro hac vice)
amy.schulman@dlapiper.com
DLA PIPER US LLP
1251 Avenue of the Americas
New York, NY 10020-1104
Tel: 212.335.4500
Fax: 212.335.4501

Attorneys for Defendant
Kraft Foods Global, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ADRIANNE SMITH, as an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

KRAFT FOODS, INC., a Virginia
corporation,

Defendant.

CASE NO. 07 CV 2192 BEN (CAB)

Assigned to Hon. Roger T. Benitez

**DEFENDANT KRAFT FOODS GLOBAL,
INC.'S NOTICE OF MOTION AND
MOTION TO DISMISS PURSUANT TO
FRCP 12(B)(6)**

[Filed concurrently with (1) Memorandum of
Points and Authorities in Support of Motion to
Dismiss and (2) Request for Judicial Notice]

Date: April 21, 2008
Time: 10:30 a.m.
Place: Courtroom 3

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 21, 2008, at 10:30 a.m., or as soon thereafter as
3 the matter may be heard, in Courtroom 3 of the above-entitled Court, located at 940 Front Street,
4 San Diego, California 92101, Defendant Kraft Foods Global, Inc., erroneously sued as Kraft
5 Foods Inc., will and hereby does move the Court, pursuant to Federal Rule of Civil Procedure
6 12(b)(6), for an Order dismissing Plaintiff's Complaint in its entirety with prejudice.

7 Dismissal is appropriate because Plaintiff's entire Complaint is preempted by federal food
8 labeling regulations promulgated by the Food and Drug Administration, 21 U.S.C. § 343(r), and
9 because each of Plaintiff's causes of action fails to allege facts sufficient to state a claim for relief
10 against Defendant.

11 This Motion is based upon this Notice of Motion and Motion, the accompanying
12 Memorandum of Points and Authorities in support, the pleadings, papers, and exhibits filed or
13 lodged in this action, all items which may be judicially noticed, all other matters that may
14 appropriately be presented to the Court, and any oral argument as may be presented at the hearing
15 of this Motion.

16 Dated: February 13, 2008

DLA PIPER US LLP

17
18 s/Noah A. Katsell

19 Attorneys for Defendant Kraft Foods Global, Inc.
20 E-mail: noah.katsell@dlapiper.com
21
22
23
24
25
26
27
28